

OPINION
46-256

June 3, 1946 (OPINION)

SPECIAL ASSESSMENTS

RE: Municipalities

This office is in receipt of your recent letter asking for a clarification of section 40-2913 of the North Dakota Revised Code of 1943. This section reads as follows:

"Except as otherwise provided in this section, a municipality shall not be liable generally on any contract for the construction, rebuilding, or repairing of sidewalks, and shall not be required to pay funds raised by general taxation upon any such contract. If lots against which sidewalk assessments are laid have become either the absolute property of the county because of a sale for delinquent taxes or the absolute property of the municipality because of a sale for delinquent special assessments, the governing body, by resolution, shall direct that there be paid into the sidewalk special fund, out of the general funds of the municipality, the amount of the sidewalk assessments against all such lots, with interest at seven percent, but without penalty or costs."

Under the provisions of this statute, a municipality is not required to levy special assessments for the purpose of defraying the costs of construction, rebuilding, or repairing of sidewalks. A municipality, however, is required to pay the costs of same out of its general fund, and the amount to be paid is the actual cost with interest at seven per cent, but without penalty.

In other words, a municipality is not required, and may not levy special assessments extending over a period of years, but must pay whatever costs of expense there may be in connection with construction or maintenance of sidewalks out of the general funds, and must therefore include the amount thereof in its budget.

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